

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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NOSTALIGELIA VONGOSZKNOVFFCZEDICH-HEIDLER  
*on behalf of L.D.R. (Minor),*

Plaintiff,

Case No. 24-cv-397-pp

v.

MARTIN J. O'MALLEY,

Defendant.

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**ORDER GRANTING PLAINTIFF'S MOTION FOR LEAVE TO PROCEED  
WITHOUT PREPAYING FILING FEE (DKT. NO. 2)**

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The plaintiff has filed a complaint seeking judicial review of a final administrative decision denying her claim for disability insurance benefits under the Social Security Act. Dkt. No. 1. She also filed a motion for leave to proceed without prepaying the filing fee. Dkt. No. 2.

Federal law requires a person who files a complaint in federal court to pay \$405—a filing fee of \$350 (28 U.S.C. §1914(a)) and a \$55 administrative fee (Judicial Conference of the United States District Court Miscellaneous Fee Schedule Effective the December 1, 2023, #14). To allow the plaintiff to proceed without prepaying the filing fee, the court first must decide whether the plaintiff can pay the fee; if not, it must determine whether the lawsuit is frivolous. 28 U.S.C. §§1915(a) and 1915(e)(2)(B)(i).

Based on the facts in the plaintiff's affidavit, the court concludes that she does not have the ability to pay the filing fee. It is not clear from the plaintiff's

application to proceed without prepaying fees or costs whether the plaintiff has a spouse, but she does list four minor dependents she is responsible for supporting. Dkt. No. 2 at 3. The plaintiff's stated monthly income is \$4,683 from disability. Id. at 2. The plaintiff lists monthly expenses totaling \$5,535 (\$1,675 rent, \$1,500 utilities, \$300 home maintenance, \$800 food, \$200 clothing, \$100 laundry and dry-cleaning, \$100 medical and dental expenses, \$150 transportation, \$50 recreation, etc., \$85 auto insurance, \$575 car payment). Id. at 4-5. The plaintiff does not own her home, she owns a 2019 Chrysler Pacifica worth approximately \$19,000, and she has \$115.13 in cash on hand and in a checking account. Id. at 2-3. The plaintiff has demonstrated that she cannot pay the \$405 fee.

The next step is to determine whether the case is frivolous. A case is frivolous if there is no arguable basis for relief either in law or in fact. Denton v. Hernandez, 504 U.S. 25, 31 (1992) (quoting Nietzke v. Williams, 490 U.S. 319, 325 (1989); Casteel v. Pieschek, 3 F.3d 1050, 1056 (7th Cir. 1993)). A person may obtain district court review of a final decision of the Commissioner of Social Security. 42 U.S.C. §405(g). The district court must uphold the Commissioner's final decision as long as the Commissioner used the correct legal standards and the decision is supported by substantial evidence. See Roddy v. Astrue, 705 F.3d 631, 636 (7th Cir. 2013).

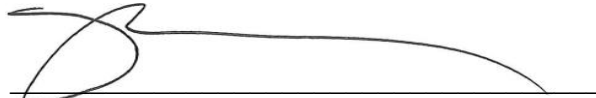
The plaintiff's complaint indicates that she was denied benefits by the Commissioner and the plaintiff alleges that the conclusion of law and findings of fact by the Commissioner when denying benefits are not supported by

substantial evidence, “are based on the incorrect application of legal principles and the application of incorrect legal principles, and are, therefore, not conclusive.” Dkt. No. 1 at 1-2. At this early stage in the case, and based on the information in the plaintiff’s complaint, the court concludes that there may be a basis in law or in fact for the plaintiff’s appeal of the Commissioner’s decision, and that the appeal may have merit, as defined by 28 U.S.C. §1915(e)(2)(B)(i).

The court **GRANTS** the plaintiff’s motion for leave to proceed without prepaying the filing fee. Dkt. No. 2.

Dated in Milwaukee, Wisconsin this 3rd day of April, 2024.

**BY THE COURT:**

A handwritten signature in black ink, appearing to read 'P. Pepper', written over a horizontal line.

**HON. PAMELA PEPPER**  
**Chief United States District Judge**